

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2506 OF 2006
IN
APPEAL NO.567 OF 2006
IN
NOTICE OF MOTION NO.1867 OF 2006
IN
SUIT NO.1655 OF 2006

Gem Star Company Pvt.Ltd. & Anr. .. Appellants
V/s
Vanita Jasani & Ors. .. Respondents

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Mr.Aspi Chinoy, Sr.Advocate with Mr.Chirag Balsara i/by
M/s.Desai & Diwanji for the Appellants.

Mr.Kevic Setalwad with Ms.S.Vedpathak i/by M/s.Maneksha
& Sethna for the Respondents.

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CORAM: DR.S.RADHAKRISHNAN &
S.J.VAZIFDAR, JJ.

DATE : 3rd August, 2006.

P.C.:

1. Heard the learned Counsel for the parties. We asked the learned Counsel for the Respodnents whether the Respondents are desirous of filing an affidavit in reply to the Notice of Motion. The learned Counsel for the Respondents categorically stated that the Respondents are not desirous of filing an affidavit in reply. The contents of the affidavit in support of the Notice of Motion are therefore totally uncontroverted.

2. We have also perused the agreement contained in the letter written by the Respondents to the Appellants dated 18th July, 2003, which reads as under:-

From: Smt.Vanita N.Jasani
Shri.Jay N.Jasani

Date: July, 18, 2003

To,

M/s.GEM STAR CO.PVT.LTD.
108, Mehta Bhavan,
311, R.R.M.Roy Road, Opera House,
Mumbai 400 004.

Attn: Shri.Prasanbhai Jhaveri

Dear Sirs,

. We record having agreed to sell to you flat No.One on the 1st floor having a Built up area of 2811.66 sq.ft in our property situate at Plot No.64, Nutan Laxmi Society, 8th Road, North South JVPD Scheme, Vile Parle, Andheri (W), Bombay 400096. Vanita Jasani & Jay Jasani are the owner having lease hold for 999 years.

The floor plan of the said flat is sent herewith.

(a) Price of Rs.6,500/- (Rupees Six Thousand Five Hundred only) per sq.ft.area,

(b) The marketable free from all encumbrances and doubts,

(c) Quite vacant and peaceful possession,

(d) The sale to be completed on or before the 1st day of February, 2004 and occupancy certificate/completion certificate from the Municipal Corporation of Greater Bombay and other concerned bodies and authorities to be obtained before that date,

(e) The stamp duty and registration charges in respect of the sale to be paid by yourselves,

(f) We shall do all things necessary and execute all necessary papers to vest the said flat in your

completely and effectually,

(g) The sale of the said flat completed in favour of yourselves and/or you nominee/nominees,

. Parking charges of 4 lac for car parking will be charged additional to the above agreement.

. You will be allotted 2 parking places.

Yours faithfully,

Sd/-
for Vanita N.Jasani

2/5 Sorab Bharucha Road, Colaba, Bombay 400005
Ph.22821673

3. Prima facie we are of the view that the above document is an agreement between the parties containing all the essential terms and conditions of an agreement. This document is not required to be registered. Under these circumstances, Notice of Motion is made absolute in terms of prayer clause (a).

(DR.S.RADHAKRISHNAN, J.)

(S.J.VAZIFDAR, J.)